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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Michael Stoltz for Robert Peterson - Director
Public Works
REPORT BY: Richard Thomasser, Watershed and Flood Control Operations Manager, (707)259-8657
SUBJECT: Construction Site Runoff Control Requirements - Workshop

RECOMMENDATION

Director of Public Works requests discussion and possible direction regarding proposed Stormwater Management Construction Site Runoff Control Requirements.

EXECUTIVE SUMMARY

On May 20, 2004, Napa County was issued coverage under the Phase II Municipal Stormwater National Pollutant Discharge Elimination System General Permit (General Permit) for the areas within the Napa River watershed. Under the conditions of the General Permit, the County must develop and implement programs to reduce the discharge of pollutants to the maximum extent practicable.

The Board also adopted Stormwater Management and Discharge Control Ordinance No. 1240 on June 22, 2004. This ordinance covers the entire unincorporated area of Napa County based upon the goal of applying uniform pollution control requirements for all receiving waters within Napa County.

The County must adopt Construction Site Runoff Control Requirements to remain in compliance with the General Permit. In today's presentation, the Public Works Department will provide information as to the standards it is recommending for the entire unincorporated area. Based upon the feedback and direction of the Board, the Public Works Department will return on a later date with a proposed resolution for Stormwater Management Construction Site Runoff Control standards for the Board's approval and adoption.

FISCAL IMPACT

Is there a Fiscal Impact? Yes
Is it currently budgeted? Yes

Where is it budgeted?	Public Works
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	The cost of administering the Construction Site Runoff Control Requirements (i.e. plan review and inspections) will be recovered through fees. Fees will be based upon actual time and materials costs based upon a current rate of \$144 per hour. It is estimated that projects will require 1 to 7 hours of staff time to review plans and/or conduct inspections depending on the size of the project, completeness of the plan submitted, and Best Management Practices (BMP) performance during construction.
Consequences if not approved:	The County must adopt Construction Site Runoff Control Requirements to remain in compliance with the General Permit. Potential liability for the County for construction sites that discharge pollutants into the County's stormwater conveyance system is a maximum of \$10,000 in fines per violation per day.
Additional Information:	None

ENVIRONMENTAL IMPACT

Categorical Exemption Class 5: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

Overview of Proposed Construction Site Runoff Control Requirements

The proposed Construction Site Runoff Control Requirements are designed to meet the conditions of Elements III and IV of the General Permit by ensuring that building and grading applicants, with the greatest potential to impact water quality, comply with the following:

1. Prepare plans for review and approval by the Department of Public Works (DPW) to ensure that all pollutant sources are addressed and that BMPs selected are appropriate for the site conditions. Plan review is a ministerial action that is not subject to the California Environmental Quality Act (CEQA) review.
2. Train all construction site workers/contractors to ensure that BMPs are implemented properly.
3. Conduct self-inspections to evaluate BMP effectiveness, make repairs, and/or revise implementation to ensure that pollutants discharged from the construction site are reduced to the maximum extent practicable.
4. Submit to routine inspections by DPW based on the project's potential to discharge pollutants to ensure

that illicit discharges are prevented or corrected.

It is proposed that building and grading permit applications that meet any of the following criteria will be subject to these requirements:

- | disturb 10,000 square feet or more, or
- | are located on slopes 15% or greater, or
- | are within 50 feet of a stormwater conveyance system, or
- | conduct earthmoving of 50 cubic yards or more.

All other grading and building permits issued by the County must comply with standard conditions of approval for BMP implementation to address all pollutant sources including erosion control, sediment control, and material management. These projects are not subject to routine inspections, but may be inspected by the DPW in response to complaints reported to the stormwater hotline.

In addition, the proposed Construction Site Runoff Control Requirements will extend the grading season for some structural projects and eliminate the distinction between Sensitive Domestic Water Supply Watersheds (SDWSWs) and non-SDWSWs. These proposed modifications to the existing Conservation Regulations will simplify the grading seasons for different categories of structural projects and better reflect actual weather patterns in Napa County.

Development of the Proposed Requirements for Construction Site Runoff Control

The proposed Construction Site Runoff Control Requirements were developed with input from other County departments as well as local stakeholder groups such as the Napa Valley Land Stewards Alliance (NVLSA), Solano-Napa Builders Exchange, Living Rivers Council, and several construction contractors. The majority of concerns expressed by the stakeholder groups have been addressed. However, the NVLSA maintains that applying the proposed requirements for projects under 1 acre and/or under 15% slope will result in significant costs for the public and provide little benefit to creeks.

To fulfill the obligations of the General Permit, DPW has been implementing modified requirements on an interim basis since September 15, 2005 for projects greater than 1 acre (minimum requirement of the General Permit) and projects on slopes greater than 15% slope as approved by the BOS on April 26, 2005. All other building and grading permits, below this standard, have been given standard conditions of approval for erosion control, sediment control, and material management BMP implementation.

Justification for Applying the Requirements to Projects under 1 Acre and under 15% Slope

After a full year of implementing the modified requirements, the feedback from applicants has been mostly positive and the plan review and inspection programs have greatly improved BMP implementation at construction sites in Napa County. However, there are many construction sites that fall below these criteria that have a significant potential to generate illicit discharges if BMPs are not selected or implemented properly. The following is a summary of justifications requiring the submittal and approval of a Stormwater Quality Management Plan and inclusion in the inspection program, the potential cost to building and grading permit applicants to comply with these requirements, and the potential benefit to the County and the applicant.

Applicability Criteria

The criteria developed to determine whether projects must prepare a plan and be subject to routine inspections by the DPW is based upon the project's potential to pollute waterways. The four factors that determine a project's

potential to pollute include the area of disturbance, the slope, proximity to a stormwater conveyance system, and the amount of cut and fill. The basis for selecting criteria is summarized below.

1. *10,000 square feet of disturbance or more* - Projects that disturb one acre or more are already subject to the State's NPDES General Permit for Construction. These projects are required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), conduct inspections, and training, and in some cases conduct sampling and analysis. While the threshold of 1 acre or more may be appropriate for a program at the State level, the DPW experience is that projects that disturb 10,000 square feet or more (approximately 1/4 acre) are significant and should be required to prepare and submit a plan for review and approval. Illicit discharges from projects of this size have been observed, that might have been prevented had a plan been submitted for review by DPW staff. 10,000 square feet is still a high enough threshold that most single family home construction and additions will not have to prepare or submit plans or be included in the routine inspection program.
2. *15% slopes and greater* - This criteria is consistent with the Conservation Regulations.
3. *Within 50 feet from a stormwater conveyance system* - Projects with disturbance near stormwater conveyance systems (curb and gutter, ditches, creeks) do not have much buffer to filter pollutants if erosion and sediment control BMPs are not effective or fail. The DPW developed the criteria of 50 feet based upon the typical widths required to adequately filter sediment for slopes between 0% and 15%.
4. *Earthmoving of 50 cubic yards or more* - The criteria of 50 cubic yards of cut and/or fill is based upon the threshold for a grading permit per California Building Code.

These criteria are also consistent with the stormwater requirements in adjacent counties. A list of stormwater requirements from adjacent counties is provided in Appendix B.

Summary of Costs

Projects subject to the proposed Construction Site Runoff Control Requirements will incur the cost to 1) prepare a plan, 2) submit it for review, and 3) be subject to inspections by DPW. The potential costs are summarized as follows.

1. The cost to prepare a plan will vary depending on the nature of the project. Larger projects and projects in sensitive areas will require a longer and more comprehensive plan which takes more time to prepare. To minimize costs, the proposed requirements allow applicants to prepare their own plans unless the project is on a slope greater than 15%. The DPW has also provided a template which the applicant may use to prepare their own plans.
2. The typical cost to review and approve plans ranges from \$72 to \$144 provided the plan is complete. In some cases additional time may be required to provide comments and/or modifications that improve the overall plan and effectiveness of BMPs. Based on the DPW's experience reviewing and approving plans, these comments and modifications to the plans often result in lower construction costs for the applicant by ensuring that BMPs are appropriate for their use and effective at eliminating illicit discharges.
3. The frequency of inspections by DPW depends on the project's potential to result in illicit discharges (i.e. area, slope, proximity to a stormwater conveyance system, amount of cut and fill) and the project's implementation of BMPs. Projects with higher potential to pollute will be inspected more often as will projects with poor BMP implementation.

Summary of Benefits

Despite the fact that Element IV of the General Permit only applies to construction sites greater than 1 acre, Element III is clear that the County is potentially liable for all illicit discharges. Furthermore, the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) has indicated that the County must take whatever

enforcement action is necessary to abate the discharge in a timely manner. Appropriate enforcement actions for ongoing and recurring discharges include citations, stop work orders, civil injunctions, and/or referral to a State agency for enforcement. Based upon the experience of DPW, projects that developed their own plans without any review or approval often select BMPs that are inappropriate for the site conditions or improperly install them. The plan review process is intended to prevent poor BMP implementation and illicit discharges before enforcement action is necessary and educate property owners, contractors, and others of the proper use of erosion control measures.

Based on this experience, the DPW recommends requiring the submittal of plans for review and approval and conducting site inspections for projects that meet the proposed criteria. This will ensure these projects are adequately prepared to reduce the discharge of pollutants to the maximum extent practicable. Starting construction with a complete and adequate plan and fully implementing BMPs will also reduce costs for the County and for the property owner by reducing the likelihood of enforcement actions from the County, the California Department of Fish and Game, and/or the Regional Water Quality Control Board.

SUPPORTING DOCUMENTS

- A . Napa County Construction Site Runoff Control Requirements
- B . Construction Site Runoff Requirements Comparison by County
- C . Comparison between Con Regs and Construction Site Storm Water Requirements
- D . Sample Minor Building Permit Construction Site Runoff Control Plan

CEO Recommendation: Approve

Reviewed By: Andrew Carey